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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,893	02/03/2004	Shihong Gary Song	67097-022	1084
26096	7590	04/10/2008	EXAMINER	
CARLSON, GASKEY & OLDS, P.C.			KESSLER, CHRISTOPHER S	
400 WEST MAPLE ROAD			ART UNIT	PAPER NUMBER
SUITE 350			1793	
BIRMINGHAM, MI 48009			MAIL DATE	DELIVERY MODE
			04/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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In re Application of
Song :
Serial Number: 10/770,893 : DECISION
Filed: February 3, 2004 : ON
For: Castable High Temperature Aluminum Alloy : PETITION
:

This is in response to the petition filed January 22, 2008, requesting entry of a 1.131 Declaration filed November 20, 2007.

A Declaration was filed on May 15, 2007. The Examiner in a final rejection mailed August 8, 2007 found the May 15, 2007 Declaration ineffective for the reasons of record stated in the office action.

Applicant asserts that although the second-filed Declaration of November 20, 2007 was filed after the final rejection, it was essentially a continuation of the first-filed Declaration to reconcile procedural oversights. It is noted that the second declaration was filed over 3 months from the mailing of the final rejection on August 8, 2007.

MPEP 715.09 Seasonable Presentation

Affidavits or declarations under 37 CFR 1.131 must be timely presented in order to be admitted. Affidavits and declarations submitted under 37 CFR 1.131 and other evidence traversing rejections are considered timely if submitted:

- (A) prior to a final rejection;
- (B) before appeal in an application not having a final rejection;
- (C) after final rejection, but before or on the same date of filing an appeal, upon a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented in compliance with 37 CFR 1.116(e); or
- (D) after the prosecution is closed (e.g., after a final rejection, after appeal, or after allowance) if applicant files the affidavit or other evidence with a request for continued examination (RCE) under 37 CFR 1.114 in a utility or plant application filed on or after June 8, 1995; or a continued prosecution application (CPA) under 37 CFR 1.53(d) in a design application.

The Petition is **DISMISSED**.

The declaration filed November 20, 2007 is not timely and there is no showing of good and sufficient reasons why the affidavit was not earlier presented in compliance with 37 CFR 1.116(e).

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